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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,035	01/15/2002	Narayan Raghunathan	DC01 (213202-00359) 41341	7842
27160	7590	07/14/2004	EXAMINER MEREK, JOSEPH C	
PATENT ADMINSTRATOR KATTEN MUCHIN ZAVIS ROSENMAN 525 WEST MONROE STREET SUITE 1600 CHICAGO, IL 60661-3693			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/045,035	Applicant(s) RAGHUNATHAN ET AL.	
	Examiner Joseph C. Merek	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-26, 28-35, 37-51, 54-61, 71-77, 79, 80, 82-87, 89 and 90 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-26, 28-35, 37-51, 54-61, 71-77, 79, 80, 82-87, 89, and 90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/16/04 has been entered.

Election/Restrictions

Applicant is now traversing the telephone election requirement made in the 8/27/03. This election was made without traverse as noted in the office action. Moreover, the restriction relates to species and has nothing to do with overlapping search. The requirement is made based on the species being non-obvious over each other. If a generic claim is allowed then the withdrawn claims will be rejoined. The restriction is deemed proper and made final.

Claim Rejections - 35 USC § 112

Claims 17-26, 28-35, 37-50, 59, 61, 71-77, 79, 80, 82-87, 89, and 90 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 17, 28, and 61, " it has not been adequately supported that "each of the side walls opposing walls

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has a substantially horizontal upper edge. Regarding claims 37 and 71, it has not been adequately disclosed that the receptacle has a middle section, which extends vertically above the adjacent right and left side sections. The drawings are not to be relied upon for critical measurements. Regarding claim 17, 44, it has not been disclosed that the receptacles are curvilinear. Regarding claims 17, 42, 49, it has not been adequately disclosed that the support member is a single-piece member. Regarding claims 42, 49, 59, 79, and 89, it has not been adequately disclosed that the member is "c-shaped. The original claims and specification state that the bars are substantially c-shaped. Regarding claim 56, 66, 76, and 86, there is no support for the notches and the grooves having substantially the same depth. The above rejections are new matter rejections. The remaining claims are included since they stem from rejected claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-26, 28-35, 37-50, 59, 61, 71-77, 79, 80, 82-87, 89, and 90 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 17, 28, and 61, " it has not been adequately supported that "each of the sidewalls walls has a substantially horizontal upper edge". Regarding claims 37 and 71, it has not been adequately disclosed that the receptacle has a middle section, which extends vertically above the adjacent right and left side sections. The drawings are not to be relied

upon for critical measurements. Regarding claims 42, 49, 59, 79, and 89, it has not been adequately disclosed that the support member is a single-piece member. It is not clear what structure is required by this limitation. Regarding claim 56, 66, 76, and 86, there is no support for the notches and the grooves having substantially the same depth. It is not clear what applicant is trying to claim. The remaining claims are included since they stem from rejected claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-26, 28-35, 37-51, 54-61, 71-77, 79, 80, 82-87, 89, and 90 are rejected under 35 U.S.C. 102(b) as being anticipated by Stahl et al (US 4,391,369).

Regarding claim 17, as it is best understood, the opposing walls have notches 62 and 54 and have grooves are the areas along the outer edges of the top wall in which the bale resides as seen in Fig. 1. are substantially horizontal where the top two notches near the outer edge as seen in Fig. 1. The first notch is 62 and the second notch is the one the bale 48 is in. The bale has inwardly turned ends that extend into the receptacle 52 and the receptacle is curvilinear. The single-piece limitation does not require any structure that is not in the support of the reference. Since the support parts of the reference are joined they satisfy the

single-piece limitation. Notches 54 extend deeper in the sidewall than the notches 62 since the notches are along the slope 38. This is clearly shown in the drawings. Moreover, the notches have a bottom that is at a depth that is farther below the top edge than the bottom of notch 62. Regarding claims 18 and 19, the walls will retain objects vertically supported in the base. The walls extend above the base floor. They will provide lateral support. Regarding claim 20, see Fig. 1, where with the bale when it rests in notch 54 will be at a position that is different than the position of the bale in notch 62. Regarding claim 21, notch 62 is higher than notch 54. Regarding claim 22, see Fig. 1, the depth of notch is shallower than notches 54. Regarding claim 23, the receptacles 52 are peanut-shaped. Regarding claim 24 and 25, see Fig. 2, where the receptacles receive the inwardly turned ends of the support bars or members. Regarding claim 26, the peanut-shaped slot has a middle portion that is upwardly extending as seen in Fig. 1. Regarding claim 28, see Fig. 1 where the claimed structure is shown. Regarding claims 29-35, see the discussions above of claims 20-26. Regarding claim 37-41, see the above claim discussions. Regarding claims 42 and 49, the bar is single piece since the parts are joined together. Regarding claims 43 and 50, the ends of the bar are turned inwardly. Regarding claim 44, see Fig. 1 of Stahl et al. The receptacle is peanut shaped. Regarding claim 45-48, see the above claim discussions. Regarding claims 49 and 50, the new matter is not required, therefore the reference satisfies the claim limitations. Regarding claim 51, the third notch is 54 and is deeper since the bottom of the third notch is below that of the other two notches. Regarding claim 54 and 55, see Figs. 1, 2, and 6.

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Regarding claim 59, the bar is C-shaped with inwardly turned ends. The ends of the bar of Stahl et al turn from the outside of through the exterior container wall.

Regarding claim 61, the first and second sidewall edges are substantially the same horizontal plane. See the top edge where the first two notches are located.

Substantially allows for variation. Regarding claim 55, the first support member height is different from the second support member height. Regarding claims 56-61, see Figs. 1, 2, and 6 and the above claim discussions. Regarding claim 71, the receptacle of Stahl et al is kidney shaped and meets the concave and convex limitations where the middle is above the left and right ends. Regarding claim 72-77, 79, 80, 82-87, 89, and 90, see Figs. 1, 2, and 6, and the above claim discussions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42, 43, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stahl et al (US 4,391,369) Box (3,659,743). Regarding claims 42 and 49, to the degree that the bar of Stahl is not one-piece, Stahl et al does not teach these limitations. Box teaches a bar for a similar container for stacking where the bar is one-piece. It would have been obvious to employ the bar of Box

in the container of Stahl et al to provide a simple and unitary bar for ease of manufacture. Regarding claim 43 and 50, the receptacles receive the inwardly turned ends of the bar.

Response to Arguments

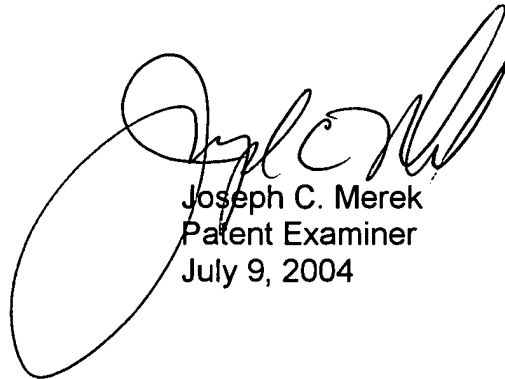
Applicant's arguments filed 6/04/03 have been fully considered but they are not persuasive. The container to Stahl et al teaches the claimed structure. There is no structure required by the limitations that is not in Stahl or the references combined with Stahl et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek
Patent Examiner
July 9, 2004